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By CM/ECF

October 12, 2021

The Honorable Philip M. Halpern
United States District Judge
The Honorable Charles L. Brieant Federal
Building and Courthouse
300 Quarropas Street
White Plains, NY 10601-4150

Re: *Fabricio v. Lee*, No. 7:16-cv-08731-PMH (S.D.N.Y.)

Dear Judge Halpern:

We represent Plaintiff Ederick Fabricio (“Plaintiff”) in the above-captioned case. We write on behalf of all parties pursuant to the Court’s October 6, 2021 order (the “Order”) directing the parties to submit a letter to the Court “advising (1) as to any objections or modifications (*i.e.*, additional or different names) to the Proposed Voir Dire Form; (2) which of the two similar paragraphs on Page 14 of the Joint Proposed Jury Instructions the parties agree that the Court use; and (3) whether they both do or do not agree whether counsel should be allowed to mention specific dollar amounts related to pain and suffering during summations.” Dkt. 205.

With respect the Proposed Voir Dire Form, the parties respectfully submit that certain modifications should be made to several of the *voir dire* questions to reflect additional or different names of counsel and witnesses. The proposed changes are reflected in the attached Exhibit A. The parties have no objections to any of the proposed *voir dire* questions.

With respect to the Proposed Jury Instructions, the parties request that the Court use the second of the two similar paragraphs on Page 14 of the Proposed Jury Instructions. A revised copy of the Proposed Jury Instructions reflecting the aforementioned change are attached hereto as Exhibit B.

The parties further advise that counsel for the parties do not intend to mention specific dollar amounts related to any damages, including for pain and suffering, during their respective summations.

Finally, the parties advise that they are continuing to meet and confer about trial exhibits, which will be submitted to the Court on October 18, 2021. In the interim, the parties advise that they have agreed to substitute the black-and-white photographs in Exhibits 7, B, and C for versions of the exhibits containing color photographs. The Bates numbers for the revised Exhibits 7, B, and C are as follows:

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- Exhibit 7: Fabricio OSI File Pg. 177–179
- Exhibit B: Fabricio OSI File Pg. 176–177
- Exhibit C: Fabricio OSI File Pg. 177–179

We thank the Court for its attention to this matter.

Respectfully submitted,

S/ William E. O'Neil

William E. O'Neil

Attachments

cc: All counsel of record (by CM/ECF)